

JAN 18 2013

A BILL FOR AN ACT

RELATING TO EDUCATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 37, Hawaii Revised Statutes, is amended
2 by adding a new section to be appropriately designated and to
3 read as follows:

4 "§37- Charter schools; carryover of funds. (a) Charter
5 schools may carry over up to five per cent of any appropriation,
6 except for appropriations to fund financing agreements entered
7 into in accordance with chapter 37D, at the close of a fiscal
8 year and the funds retained shall not lapse until June 30 of the
9 first fiscal year of the next fiscal biennium. Each authorizer
10 of a charter school shall submit:

11 (1) A report to the director of finance ninety days after
12 the close of each fiscal year, which shall be prepared
13 in the form prescribed by the director of finance and
14 shall identify the total amount of funds that will
15 carry over to the next fiscal year for each charter
16 school under the authorizer's jurisdiction; and



(2) A copy of the report required by paragraph (1) to the legislature no later than twenty days prior to the convening of the next regular session.

(b) Appropriations allocated to the charter schools shall remain within the budget of the charter school to which they were originally appropriated; provided that the retention of an appropriation shall not be used as a basis for reducing a charter school's future budget requirements."

SECTION 2. Chapter 302D, Hawaii Revised Statutes, is amended by adding three new sections to be appropriately designated and to read as follows:

"§302D-A Annual audit. Charter schools shall annually complete an independent financial audit that complies with the requirements of its authorizer and the department.

§302D-B Criminal history record checks. (a) The commission shall develop procedures for obtaining verifiable information regarding the criminal history of persons who are employed or seeking employment in any position, including teacher trainees, that places them in close proximity to children. These procedures shall include criminal history record checks in accordance with section 846-2.7. Information obtained pursuant to this subsection shall be used exclusively



1 by the employer or prospective employer for the purpose of
2 determining whether a person is suitable for working in close
3 proximity to children. All such decisions shall be subject to
4 applicable federal laws and regulations.

5 (b) The employer or prospective employer may:

6 (1) Refuse to allow or continue to allow teacher training;

7 (2) Terminate the employment of any employee; or

8 (3) Deny employment to an applicant,

9 if the person has committed a crime, and if the employer or

10 prospective employer finds by reason of the nature and

11 circumstances of the crime, that the person poses a risk to the

12 health, safety, or well-being of children. Refusal or

13 termination may occur only after appropriate investigation and

14 notification to the employee or applicant of the results and

15 planned action and after the employee or applicant is given an

16 opportunity to meet and rebut the findings. Nothing in this

17 subsection shall abrogate any applicable rights under chapter 76

18 or 89, or any administrative rule of the commission.

19 (c) This section shall not be used by the commission or

20 any public charter school to secure criminal history record

21 checks of person who have been continuously employed by a

22 charter school on a salaried basis prior to July 1, 1990.



1 (d) Notwithstanding any other law to the contrary, for
2 purposes of this section, the commission shall be exempt from
3 section 831-3.1 and shall not be required to conduct
4 investigations, notifications, or hearings in accordance with
5 chapter 91.

6 §302D-C Enrollment. (a) A public charter school shall
7 not discriminate against any student or limit admission based on
8 race, color, ethnicity, national origin, religion, gender,
9 sexual orientation, income level, disability, level of
10 proficiency in the English language, need for special education
11 services, or academic or athletic ability.

12 (b) A start-up charter school:

13 (1) Shall be open to any student residing in the State;

14 (2) Shall enroll all students who submit an application,
15 unless the number of students who submit an
16 application exceeds the capacity of a program, class,
17 grade level, or building;

18 (3) Shall select students through a public lottery if, as
19 described in paragraph (2), capacity is insufficient
20 to enroll all students who have submitted a timely
21 application;



1 (4) May give an enrollment preference to students within a
2 given age group or grade level and may be organized
3 around a special emphasis, theme, or concept as stated
4 in the charter school's application and as approved by
5 the charter school's authorizer;

6 (5) May give an enrollment preference to students enrolled
7 in the charter school during the previous school year
8 and to siblings of students already enrolled at the
9 charter school; and

10 (6) May give any other enrollment preference permitted by
11 the charter school's authorizer, on an individual
12 charter school basis, if consistent with law;

13 provided that nothing in this subsection shall preclude the
14 formation of a start-up charter school whose mission is focused
15 on serving students with disabilities, who are of the same
16 gender, who pose such severe disciplinary problems that they
17 warrant a specific educational program, or who are at a risk of
18 academic failure.

19 (c) A conversion charter school shall:

20 (1) Enroll any student who resides within the school's
21 former geographic service area pursuant to section
22 302A-1143, for the grades that were in place when the



1 public school converted to a charter school; provided
2 that the department may consult with a conversion
3 charter school every three years to determine whether
4 realignment of the charter school's service area is
5 appropriate given population shifts and the
6 department's overall service area reviews;
7 (2) Follow the department's procedures regarding
8 enrollment, including but not limited to geographic
9 exceptions and enrollment preferences; and
10 (3) Be subject to subsection (b) for grades that were not
11 in place when the school converted to a public charter
12 school."

13 SECTION 3. Section 302A-1132, Hawaii Revised Statutes, is
14 amended by amending subsection (a) to read as follows:

15 "(a) Unless excluded from school or excepted from
16 attendance, all children who will have arrived at the age of at
17 least six years, and who will not have arrived at the age of
18 eighteen years, by January 1 of any school year, shall attend
19 either a public school, public charter school, or private school
20 for, and during, the school year, and any parent, guardian, or
21 other person having the responsibility for, or care of, a child
22 whose attendance at school is obligatory shall send the child to



1 either a public or private school. Attendance at a public or
2 private school shall not be compulsory in the following cases:

3 (1) Where the child is physically or mentally unable to
4 attend school (deafness and blindness excepted), of
5 which fact the certificate of a duly licensed
6 physician shall be sufficient evidence;

7 (2) Where the child, who has reached the fifteenth
8 anniversary of birth, is suitably employed and has
9 been excused from school attendance by the
10 superintendent or the superintendent's authorized
11 representative, or by a family court judge;

12 (3) Where, upon investigation by the family court, it has
13 been shown that for any other reason the child may
14 properly remain away from school;

15 (4) Where the child has graduated from high school;

16 (5) Where the child is enrolled in an appropriate
17 alternative educational program as approved by the
18 superintendent or the superintendent's authorized
19 representative in accordance with the plans and
20 policies of the department, or notification of intent
21 to home school has been submitted to the principal of
22 the public school that the child would otherwise be



1 required to attend in accordance with department rules
2 adopted to achieve this result; or

3 (6) Where:

4 (A) The child has attained the age of sixteen years;

5 (B) The principal has determined that:

6 (i) The child has engaged in behavior which is
7 disruptive to other students, teachers, or
8 staff; or

9 (ii) The child's non-attendance is chronic and
10 has become a significant factor that hinders
11 the child's learning; and

12 (C) The principal of the child's school, and the
13 child's teacher or counselor, in consultation
14 with the child and the child's parent, guardian,
15 or other adult having legal responsibility for or
16 care of the child, develops an alternative
17 educational plan for the child. The alternative
18 educational plan shall include a process that
19 shall permit the child to resume school.

20 The principal of the child's school shall file the
21 plan made pursuant to subparagraph (C) with the
22 child's school record. If the adult having legal



1 responsibility for or care of the child disagrees with
2 the plan, then the adult shall be responsible for
3 obtaining appropriate educational services for the
4 child."

5 SECTION 4. Section 302D-1, Hawaii Revised Statutes, is
6 amended as follows:

7 1. By amending the definitions of "authorizer" and
8 "charter school" or "public charter school" and "organizational
9 viability" to read:

10 "Authorizer" means an entity established under this
11 chapter with chartering authority to review charter
12 applications, decide whether to approve or [~~reject~~] deny charter
13 applications, enter into charter contracts with applicants,
14 oversee public charter schools, and decide whether to authorize,
15 [~~reauthorize,~~] renew, deny renewal of, or [~~reject~~] revoke
16 charter contracts. The term may include the commission when
17 appropriate.

18 "Charter school" or "public charter school" refers to those
19 public schools and their respective governing boards, as defined
20 in this section, that are holding [~~charters~~] charter contracts
21 to operate as charter schools under this chapter, including
22 start-up and conversion charter schools, and that have the



1 flexibility and independent authority to implement alternative
2 frameworks with regard to curriculum, facilities management,
3 instructional approach, virtual education, length of the school
4 day, week, or year, and personnel management.

5 "Organizational viability" means that a charter school:

6 (1) Has been duly constituted and operates in accordance
7 with its charter;

8 (2) Has a governing board established in accordance with
9 law and the charter school's charter;

10 (3) Employs sufficient faculty and staff to provide the
11 necessary educational program and support services to
12 operate the facility in accordance with its charter;

13 (4) Maintains accurate and comprehensive records regarding
14 students and employees as determined by its
15 authorizer;

16 (5) Meets appropriate standards of student achievement as
17 defined by the board pursuant to its duties under
18 article X, section 3, of the constitution of the State
19 of Hawaii;

20 (6) Cooperates with board and authorizer requirements in
21 conducting its functions;



(7) Complies with applicable federal, state, and county laws and requirements;

(8) In accordance with authorizer guidelines and procedures, is financially sound and fiscally responsible in its use of public funds, maintains accurate and comprehensive financial records, operates in accordance with generally accepted accounting practices, and maintains a sound financial plan;

(9) Operates within the scope of its charter contract and fulfills obligations and commitments of its charter;

(10) Complies with all health and safety laws and requirements;

(11) Complies with all authorizer directives, policies, and procedures; and

(12) Complies with all board policies deemed applicable to charter schools by the board."

2. By deleting the definition of "executive director".

~~["Executive director" means the executive director of the state public charter school commission.]~~

SECTION 5. Section 302D-3, Hawaii Revised Statutes, is amended to read as follows:



1 "[+]"§302D-3[+] State public charter school commission;
2 establishment; appointment. (a) There is established the state
3 public charter school commission with statewide chartering
4 jurisdiction and authority. The commission shall be placed
5 within the department for administrative purposes only.
6 Notwithstanding section 302D-25 and any law to the contrary, the
7 commission shall be subject to chapter 92.

8 (b) The mission of the commission shall be to authorize
9 high-quality public charter schools throughout the State.

10 (c) The commission shall consist of nine members to be
11 appointed by the board. The board shall appoint members who
12 will be tasked with authorizing public charter schools that
13 serve the unique and diverse needs of public school students.
14 The chair of the commission shall be designated by the members
15 of the commission for each school year beginning July 1, and
16 whenever there is a vacancy. The board shall consider the
17 combination of abilities, breadth of experiences, and
18 characteristics of the commission, including but not limited to
19 reflecting the diversity of the student population, geographical
20 representation, and a broad representation of education-related
21 stakeholders.



(d) Understanding that the role of the commission is to ensure a long-term strategic vision for Hawaii's public charter schools, each nominee to the commission shall meet the following minimum qualifications:

(1) Commitment to education. Each nominee's record should demonstrate a deep and abiding interest in education, and a dedication to the social, academic, and character development of young people through the administration of a high performing charter school system;

(2) Record of integrity, civic virtue, and high ethical standards. Each nominee shall demonstrate integrity, civic virtue, and high ethical standards and be willing to hold fellow commission members to the same;

(3) Availability for constructive engagement. Each nominee shall commit to being a conscientious and attentive commission member; and

(4) Knowledge of best practices. Each nominee shall have an understanding of best practices in charter school educational governance or shall be willing to be trained in such.



(e) Each nominee to the commission shall ideally meet the following recommended qualifications:

- (1) Experience governing complex organizations. Each nominee should possess experience with complex organizations, including but not limited to performance contract management, and a proven ability to function productively within them; and
- (2) Collaborative leadership ability. Each nominee should have substantial leadership experience that ideally illustrates the nominee's ability to function among diverse colleagues as an effective team member, with the ability to articulate, understand, and help shape consensus surrounding commission policies.

(f) Five members of the commission shall constitute a quorum to conduct business and a concurrence of at least five members shall be necessary to make any action of the commission valid.

(g) Commission members shall serve not more than three consecutive three-year terms, with each term beginning on July 1; provided that the initial terms that commence after June 30, 2012, shall be staggered as follows:



(1) Three members, including the chairperson, to serve three-year terms;

(2) Three members to serve two-year terms; and

(3) Three members to serve one-year terms.

(h) Notwithstanding the terms of the members, the board may fill vacancies in the commission at any time when a vacancy occurs due to resignation, non-participation, the request of a majority of the commission members, or termination by the board for cause.

(i) Commission members shall receive no compensation. When commission duties require that a commission member take leave of the member's duties as a state employee, the appropriate state department shall allow the commission member to be placed on administrative leave with pay and shall provide substitutes, when necessary, to fulfill that member's departmental duties. Members shall be reimbursed for necessary travel expenses incurred in the conduct of official commission business.

(j) ~~[The commission shall establish operating procedures that shall include conflict of interest procedures for any member whose school of employment or governing board is before the commission.]~~ Commission members shall disclose to the



1 commission a list of all charter schools in which the member is
2 an employee, governing board member, vendor, contractor, agent,
3 or representative. Any member having such interest in any
4 matter before the commission shall be disqualified from voting
5 on or participating in the discussion of the matter.

6 (k) The commission shall operate with dedicated resources
7 and staff qualified to execute the day-to-day responsibilities
8 of the commission pursuant to this chapter.

9 (l) The commission shall have the power to hire staff
10 without regard to chapters 76 and 89."

11 SECTION 6. Section 302D-6, Hawaii Revised Statutes, is
12 amended to read as follows:

13 "[+]§302D-6[+] **Principles and standards for charter**
14 **authorizing.** All authorizers shall be required to [~~develop and~~
15 ~~maintain chartering policies and practices consistent with~~
16 follow nationally recognized principles and standards for
17 quality charter authorizing in all major areas of authorizing
18 responsibility including:

- 19 (1) Organizational capacity and infrastructure;
20 (2) Soliciting and evaluating charter applications;
21 (3) Performance contracting;



(4) Ongoing public charter school oversight and

evaluation; and

(5) Charter and charter contract renewal decision-making.

Authorizers shall carry out all their duties under this chapter in a manner consistent with nationally recognized principles and standards and with the spirit and intent of this chapter. Evidence of material or persistent failure to do so shall constitute grounds for losing charter authorizing powers."

SECTION 7. Section 302D-12, Hawaii Revised Statutes, is amended as follows:

1. By amending subsection (a) to read:

"(a) No more than ~~[thirty per cent]~~ one-third of the voting members of a governing board shall be employees of a school or relatives of employees of a school under the jurisdiction of that governing ~~[board, provided that the chief executive officer, chief administrative officer, executive director, or otherwise designated head of a charter school may serve as an ex officio, non voting member of the governing]~~ board. In selecting members, consideration shall be given to persons who:

(1) Provide the governing board with a diversity of perspective and a level of objectivity that accurately



1 represent the interests of the charter school students
2 and the surrounding community;

3 (2) Demonstrate an understanding of best practices of non-
4 profit governance; and

5 (3) Possess strong financial and academic management and
6 oversight abilities, as well as human resource and
7 fundraising experience."

8 2. By amending subsection (d) to read:

9 "(d) Governing boards and charter schools shall be exempt
10 from chapter 103D, but shall develop internal policies and
11 procedures for the procurement of goods, services, and
12 construction, consistent with the goals of public accountability
13 and public procurement practices. Governing boards and charter
14 schools are encouraged to use the provisions of chapter 103D
15 wherever possible; provided that the use of one or more
16 provisions of chapter 103D shall not constitute a waiver of the
17 exemption from chapter 103D and shall not subject the charter
18 school to any other provision of chapter 103D."

19 3. By amending subsection (h) to read:

20 "(h) For purposes of this section[, ~~"employees" shall~~]:

21 "Employees" shall include but not be limited to the chief
22 executive officer, chief administrative officer, executive



1 director, or otherwise designated head of a charter school[-]
2 and shall include any person under an employment contract to act
3 as the chief executive officer, chief administrative officer,
4 executive director, or designated head of a charter school.

5 "Relative" means a spouse, fiancé, fiancée, any relative
6 within four degrees of consanguinity or the spouse, fiancé, or
7 fiancée of such a relative."

8 SECTION 8. Section 302D-13, Hawaii Revised Statutes, is
9 amended by amending subsections (c) and (d) to read as follows:

10 "(c) The start-up charter school charter application
11 process and schedule shall be determined by the authorizer, and
12 shall provide for and include, at a minimum, the following
13 elements:

14 (1) The submission of a letter of intent to operate a
15 start-up charter school;

16 (2) The ~~[timely transmittal]~~ availability of the charter
17 application form and completion guidelines ~~[to]~~ on the
18 ~~[governing board;]~~ authorizer's website;

19 (3) The timely submission of a completed charter
20 application to the authorizer;

21 (4) The timely review of the charter application by the
22 authorizer for completeness, and notification by the



1 authorizer to the governing board that the charter
2 application is complete;

3 (5) Upon receipt of a completed charter application, the
4 ~~[convening of the commission, if applicable, by the~~
5 ~~commission chairperson to begin]~~ review and evaluation
6 of the charter application[+] by qualified persons;

7 (6) Following the [submission] review and evaluation of a
8 charter application, ~~[issuance of a charter or]~~
9 approval or denial of the charter application by the
10 authorizer ~~[or if submitted to the commission, by~~
11 ~~majority vote];~~

12 (7) A provision for a final date by which a decision of
13 whether to approve or deny a charter application must
14 be made[+] by the authorizer, upon receipt of a
15 complete charter application; and

16 (8) A provision that no start-up charter school may begin
17 operation before obtaining authorizer approval of its
18 charter application and charter contract[+] and
19 fulfilling pre-opening requirements that may be
20 imposed by the authorizer.

21 (d) A charter application to become a start-up charter
22 school shall meet the requirements of this subsection and



1 section 302D-25. The charter application shall, at a minimum,
2 include the following:

- 3 (1) A description of employee rights and management issues
4 and a framework for addressing those issues that
5 protects the rights of employees;
- 6 (2) A plan for identifying, recruiting, and retaining
7 highly qualified instructional faculty[+], as defined
8 by the department;
- 9 (3) A plan for identifying, recruiting, and selecting
10 students that is not exclusive, elitist, or
11 segregationist[+], and complies with this chapter;
- 12 (4) The curriculum and instructional framework to be used
13 to achieve student outcomes, including an assessment
14 plan;
- 15 (5) A plan for the assessment of student, administrative
16 support, and teaching personnel performance that:
 - 17 (A) Recognizes the interests of the general public;
 - 18 (B) Incorporates or exceeds the educational content
19 and performance standards developed by the
20 department for the public school system;
 - 21 (C) Includes a system of faculty and staff
22 accountability that holds faculty and staff



1 individually and collectively accountable for
2 their performance, and that is at least
3 equivalent to the average system of
4 accountability in public schools throughout the
5 State; and

6 (D) Provides for program audits and annual financial
7 audits;

8 (6) A governance structure for the charter school that
9 incorporates a conflict of interest policy and a plan
10 for periodic training to carry out the duties of
11 governing board members;

12 (7) A description of the constitution of the governing
13 board, terms of governing board members, and the
14 process by which governing board members were
15 selected;

16 (8) A financial plan based on the most recent fiscal
17 year's per-pupil charter school allocation that
18 demonstrates the ability to meet the financial
19 obligations of one-time, start-up costs and ongoing
20 costs such as monthly payrolls, faculty recruitment,
21 professional development, and facilities costs; and

22 (9) A facilities plan."



SECTION 9. Section 302D-14, Hawaii Revised Statutes, is amended to read as follows:

"[+]§302D-14[+] Conversion charter schools; establishment.

(a) A conversion charter school may be established pursuant to this section.

(b) Any department school, school community council, group of teachers, group of teachers and administrators, or nonprofit organization may submit a letter of intent to an authorizer to convert a department school to a charter school, establish a governing board as its governing body, and develop a charter application pursuant to subsection (d).

(c) The conversion charter school charter application process and schedule shall be determined by the authorizer, and shall provide for and include the following elements:

(1) The submission of a letter of intent to convert to a charter school;

(2) The ~~[timely transmittal]~~ availability of the charter application form and completion guidelines ~~[to]~~ on the ~~[governing board,]~~ authorizer's website;

(3) The timely submission of a completed charter application to the authorizer; provided that the charter application shall include certification and



1 documentation that the charter application was
2 approved by a majority of the votes cast by existing
3 administrative, support, teaching personnel, and
4 parents of students at the existing department school;
5 provided that:

6 (A) This vote shall be considered by the authorizer
7 to be the primary indication of the existing
8 administrative, support, and teaching personnel,
9 and parents' approval to convert to a charter
10 school;

11 (B) The balance of stakeholders represented in the
12 vote and the ~~[broad]~~ extent of support received
13 in support of the conversion shall be a key
14 factor, along with the applicant's proposed
15 plans, in an authorizer's decision to award a
16 charter; and

17 (C) A breakdown of the number of administrative,
18 support, and teacher personnel, and parents that
19 constitute the existing department school and the
20 number that actually participated in the vote
21 shall be provided to the authorizer;



- 1 (4) The timely review of the charter application by the
2 authorizer for completeness, and notification by the
3 authorizer to the governing board that the charter
4 application is complete;
- 5 (5) Upon receipt of a completed charter application, the
6 ~~[convening of the commission, if applicable, by the~~
7 ~~commission chairperson to begin]~~ review and evaluation
8 of the charter application~~[+]~~ by qualified persons;
- 9 (6) Following the ~~[submission]~~ review and evaluation of a
10 charter application, ~~[issuance of a charter]~~ approval
11 or denial of the charter application by the authorizer
12 ~~[or if submitted to the commission, by majority vote];~~
- 13 (7) A provision for a final date by which a decision of
14 whether to approve or deny a charter application must
15 be made by the authorizer, upon receipt of a complete
16 charter application; and
- 17 (8) A provision that no conversion charter school may
18 begin operation before obtaining authorizer approval
19 of its charter and charter contract~~[-]~~ and fulfilling
20 pre-opening requirements that may be imposed by the
21 authorizer.



(d) A charter application to become a conversion charter school shall meet the requirements of this subsection and section 302D-25. The charter application shall include, at a minimum, the following:

(1) A description of employee rights and management issues and a framework for addressing those issues that protects the rights of employees;

(2) A plan for identifying, recruiting, and retaining highly qualified instructional faculty[+], as defined by the department;

(3) A plan for identifying, recruiting, and selecting students that is not exclusive, elitist, or segregationist[+], and complies with this chapter;

(4) The curriculum and instructional framework to be used to achieve student outcomes, including an assessment plan;

(5) A plan for the assessment of student, administrative support, and teaching personnel performance that:

(A) Recognizes the interests of the general public;

(B) Incorporates or exceeds the educational content and performance standards developed by the department for the public school system;



(C) Includes a system of faculty and staff accountability that holds faculty and staff individually and collectively accountable for their performance, and that is at least equivalent to the average system of accountability in public schools throughout the State; and

(D) Provides for program audits and annual financial audits;

(6) A governance structure for the charter school that incorporates a conflict of interest policy and a plan for periodic training to carry out the duties of governing board members;

(7) A description of the constitution of the governing board, terms of governing board members, and the process by which governing board members were selected;

(8) A financial plan based on the most recent fiscal year's per-pupil charter school allocation that demonstrates the ability to meet the financial obligations of one-time, start-up costs and ongoing



1 costs such as monthly payrolls, faculty recruitment,
2 professional development, and facilities costs; and

3 (9) A facilities plan.

4 (e) A nonprofit organization may submit a letter of intent
5 to an authorizer to convert a department school to a conversion
6 charter school, operate and manage the school, establish a
7 governing board as its governing body, and develop a charter
8 application pursuant to subsection (d); provided that:

9 (1) As the governing body of the conversion charter
10 school, the governing board shall be the board of
11 directors of the nonprofit organization and shall not
12 be selected pursuant to section 302D-12. The
13 nonprofit organization may also appoint advisory
14 groups of community representatives for each school
15 managed by the nonprofit organization; provided that
16 these groups shall not have governing authority over
17 the school and shall serve only in an advisory
18 capacity to the nonprofit organization;

19 (2) The charter application for each conversion charter
20 school to be operated by the nonprofit organization
21 shall be formulated, developed, and submitted by the
22 nonprofit organization, and shall be approved by a



1 majority of the votes cast by existing administrative,
2 support, and teaching personnel, and parents of the
3 students of the existing department school; provided
4 that:

5 (A) This vote shall be considered by the authorizer
6 to be the primary indication of the existing
7 administrative, support, and teaching personnel,
8 and parents' approval to convert to a charter
9 school;

10 (B) The balance of stakeholders represented in the
11 vote and the ~~[broad]~~ extent of support received
12 in support of the conversion shall be a key
13 factor, along with the applicant's proposed
14 plans, in an authorizer's decision to award a
15 charter; and

16 (C) A breakdown of the number of administrative,
17 support, and teacher personnel, and parents that
18 constitute the existing department school and the
19 number that actually participated in the vote
20 shall be provided to the authorizer;

21 (3) The board of directors of the nonprofit organization,
22 as the governing body for the conversion charter



1 school that it operates and manages, shall have the
2 same protections that are afforded to the board in its
3 role as the conversion charter school governing body;

- 4 (4) Any conversion charter school that is managed and
5 operated by a nonprofit organization shall be eligible
6 for the same federal and state funding as other public
7 schools; provided that ~~[the nonprofit organization~~
8 ~~makes a minimum annual]~~ nothing in this section shall
9 prohibit a nonprofit organization from making a
10 contribution [of \$1 per pupil] toward the operation of
11 a conversion charter school [for every \$4 per pupil
12 allocated by the department of budget and finance for
13 the operation of the conversion charter school;
14 provided further that in no event shall the nonprofit
15 organization be required to contribute more than the
16 total required contribution per pupil per year. As
17 used in this paragraph, "total required contribution"
18 means:
- 19 ~~(A) \$1,650 for school years 2012-2013 through 2015-~~
20 ~~2016; and~~
- 21 ~~(B) \$1,815 for school years 2016-2017 through 2020-~~
22 ~~2021]; and~~



1 (5) If, at any time, the board of directors of the
2 nonprofit organization governing the conversion
3 charter school votes to discontinue its relationship
4 with the charter school, the charter school may submit
5 a revised charter application to the authorizer to
6 continue as a conversion school without the
7 participation of the nonprofit organization.

8 (f) Any nonprofit organization that seeks to manage or
9 operate a conversion charter school as provided in subsection
10 (e) shall comply with the following at the time of charter
11 application:

12 (1) Have bylaws or policies that describe the manner in
13 which business is conducted and policies that relate
14 to the management of potential conflict of interest
15 situations;

16 (2) Have experience in the management and operation of
17 public or private schools or, to the extent necessary,
18 agree to obtain appropriate services from another
19 entity or entities possessing such experience;

20 (3) Comply with all applicable federal, state, and county
21 laws, including licensure or accreditation, as
22 applicable; and



(4) Comply with any other requirements prescribed by the department to ensure adherence with applicable federal, state, and county laws, and the purposes of this chapter.

(g) Any public school or schools, programs, or sections of existing public school populations that are part of a separate Hawaiian language immersion program using existing public school facilities may submit a letter of intent to an authorizer to form a conversion charter school pursuant to this section.

(h) In reviewing a charter application for a charter under this section, an authorizer shall take into consideration the constitution of the applicant's governing board, terms of governing board members, and the process by which governing board members were selected.

(i) In the event of a conflict between the provisions in this section and other provisions in this chapter, this section shall control.

~~[(j) Any applicant whose charter application is denied by the authorizer shall not be allowed to amend or resubmit the charter application to the authorizer during a given cycle, as defined by the authorizer, except as provided in subsection (e) (5); provided that an applicant shall have the right to~~



1 ~~appeal the authorizer's denial of its charter application~~
2 ~~pursuant to section 302D-15.~~

3 ~~(k)~~ (j) In reviewing charter applications for a charter
4 under this section, an authorizer shall develop a schedule to
5 approve or deny a charter application by the end of the calendar
6 year for purposes of meeting any deadlines to request funding
7 from the legislature."

8 SECTION 10. Section 302D-15, Hawaii Revised Statutes, is
9 amended to read as follows:

10 "~~[+]~~\$302D-15~~[+]~~ **Appeals; charter applications,**
11 ~~[reauthorizations,~~ renewals, or revocations. (a) The board
12 shall have the power to decide appeals of decisions by an
13 authorizer to deny the approval of a charter application, deny
14 ~~[reauthorization]~~ renewal of a charter ~~[school,~~ contract, or
15 revoke a charter school's charter~~[.]~~ contract. An appeal shall
16 be filed with the board within twenty-one calendar days of the
17 receipt of the notification of denial or revocation. Only a
18 party whose charter application has been denied, whose
19 ~~[reauthorization]~~ charter contract renewal has been denied, or
20 whose charter contract has been revoked may initiate an appeal
21 under this section for cause. The board shall review an appeal
22 and issue a final decision within sixty calendar days of the



1 filing of the appeal. [~~The board may adopt applicable rules and~~
2 ~~procedures pursuant to chapter 91 for implementing the appeals~~
3 ~~process.~~]

4 (b) The board shall serve as the final arbitrator of
5 appeals authorized by subsection (a).

6 (c) A party shall not be entitled to a hearing before the
7 board under this section until it has exhausted all available
8 administrative remedies.

9 (d) The board shall adopt applicable rules and procedures
10 pursuant to chapter 91 for implementing this section."

11 SECTION 11. Section 302D-16, Hawaii Revised Statutes, is
12 amended as follows:

13 1. By amending subsection (a) to read:

14 "(a) The performance provisions within the charter
15 contract shall be based on a performance framework that clearly
16 sets forth the academic and operational performance indicators,
17 measures, and metrics that will guide the authorizer's
18 evaluations of each public charter school. The performance
19 framework, as established by the authorizer, shall include
20 indicators, measures, and metrics for, at a minimum:

21 (1) Student academic proficiency;

22 (2) Student academic growth;



- 1 (3) Achievement gaps in proficiency and growth between
2 major student subgroups;
3 (4) Attendance;
4 (5) [~~Recurrent enrollment from year to year,~~] Enrollment
5 variance;
6 (6) Postsecondary readiness, as applicable for high
7 schools;
8 (7) Financial performance and sustainability;
9 (8) Performance and stewardship, including compliance with
10 all applicable laws, rules, and terms of the charter
11 contract; and
12 (9) Organizational viability."

13 2. By amending subsection (d) to read:

14 "(d) The performance framework shall require the
15 disaggregation of all student performance data by major student
16 subgroups, [~~including gender, race, poverty status, special~~
17 ~~education status, English as a second language status, and~~
18 ~~gifted and talented status.~~] as determined by the board."

19 SECTION 12. Section 302D-18, Hawaii Revised Statutes, is
20 amended as follows:

21 1. By amending subsections (b) and (c) to read:



1 "(b) ~~[No later than September 1, the]~~ The authorizer shall
2 issue a charter school performance report and charter contract
3 renewal application guidance to any charter school whose charter
4 contract will expire the following year. The performance report
5 shall summarize the charter school's performance record to date,
6 based on the data required by this chapter and the charter
7 contract, and shall provide notice of any weaknesses or concerns
8 perceived by the authorizer concerning the charter school that
9 may jeopardize its position in seeking renewal ~~[if not timely~~
10 ~~rectified. The charter school shall have thirty days to respond~~
11 ~~to the performance report and submit any corrections or~~
12 ~~clarifications for the report].~~

13 (c) The renewal application guidance shall, at a minimum,
14 provide an opportunity for the public charter school to:

15 (1) Submit any corrections or clarifications to the
16 performance report;

17 ~~[(+1)]~~ (2) Present additional evidence, beyond the data
18 contained in the performance report, supporting its
19 case for charter renewal;

20 ~~[(+2)]~~ (3) Describe improvements undertaken or planned for
21 the school; and



1 [~~(3)~~] (4) Detail the charter school's plans for the next
2 charter term."

3 2. By amending subsection (e) to read:

4 "(e) No later than [~~March 1,~~] thirty days after the
5 issuance of the performance report, the governing board of a
6 charter school seeking renewal shall submit a renewal
7 application to the authorizer pursuant to the renewal guidance
8 issued by the authorizer. The authorizer shall decide whether
9 or not to renew the charter no later than forty-five days after
10 the filing of the renewal application."

11 3. By amending subsections (h), (i), and (j) to read:

12 "(h) An authorizer shall develop revocation and non-
13 renewal processes that:

14 (1) Provide the charter contract holders with a timely
15 notification of the prospect of revocation or non-
16 renewal and the reasons for such possible closure;

17 (2) Allow the charter contract holders a reasonable amount
18 of time in which to prepare a response;

19 (3) Provide the charter contract holders with an
20 opportunity to submit documents and give testimony
21 challenging the rationale for closure and supporting



1 the continuation of the school at an orderly
2 proceeding held for that purpose;

3 (4) Allow charter contract holders access to
4 representation by counsel, subject to section 28-8.3,
5 and to call witnesses on their behalf;

6 (5) Permit the recording of proceedings described in
7 paragraph (3); and

8 (6) After a reasonable period for deliberation, require a
9 final determination to be made and conveyed in writing
10 to the charter contract holders.

11 (i) If an authorizer revokes or does not renew a
12 charter[7] contract, the authorizer shall clearly state in
13 writing the reasons for the revocation or nonrenewal.

14 (j) Within fifteen days of taking action to renew, not
15 renew, or revoke a charter[7] contract, the authorizer shall
16 report to the board the action taken, and shall simultaneously
17 provide a copy of the report to the charter school. The report
18 shall set forth the action taken and reasons for the decision
19 and assurances as to compliance with all the requirements set
20 forth in this chapter."

21 SECTION 13. Section 302D-21, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "[+]§302D-21[+] **Annual board report.** No later than twenty
2 days prior to the convening of each regular session of the
3 legislature, the board shall issue to the governor, the
4 legislature, and the public, an annual report on the State's
5 public charter schools, drawing from the annual reports
6 submitted by every authorizer as well as any additional relevant
7 data compiled by the board, for the school year ending in the
8 preceding calendar year. The annual report shall include:

9 (1) A comparison of the performance of public charter
10 school students with the performance of [~~academically,~~
11 ~~ethnically, geographically, and economically~~
12 ~~comparable groups~~] comparable subgroups of students in
13 public schools governed by chapter 302A;

14 (2) The board's assessment of the successes, challenges,
15 and areas for improvement in meeting the purposes of
16 this chapter, including the board's assessment of the
17 sufficiency of funding for public charter schools, and
18 any suggested changes in state law or policy necessary
19 to strengthen the State's public charter schools;

20 (3) A line-item breakdown of all federal funds received by
21 the department and distributed to authorizers;



1 (4) Any concerns regarding equity and recommendations to
2 improve access to and distribution of federal funds to
3 public charter schools; and

4 (5) A discussion of all board policies adopted in the
5 previous year, including a detailed explanation as to
6 whether each policy is or is not applicable to charter
7 schools."

8 SECTION 14. Section 302D-28, Hawaii Revised Statutes, is
9 amended by amending subsection (a) to read as follows:

10 "(a) Beginning with fiscal year 2012-2013, and each fiscal
11 year thereafter, the non-facility general fund per-pupil funding
12 request for charter school students shall be the same as the
13 general fund per-pupil amount to the department in the most
14 recently approved executive budget recommendation for the
15 department [~~and~~], shall be based upon reasonable projected
16 enrollment figures for all charter schools[~~-~~], and shall include
17 only those students who fall within the purview of section
18 302A-1132. The general fund per-pupil request for each regular
19 education and special education student shall:

20 (1) Include all general fund regular education cost
21 categories, including comprehensive school support
22 services, but excluding special education services,



1 adult education, and the after-school plus program;
2 provided that these services are provided and funded
3 by the department; and

4 (2) Exclude fringe benefit costs and debt service."

5 SECTION 15. Section 302D-31, Hawaii Revised Statutes, is
6 amended to read as follows:

7 "[+]§302D-31[+] **Sports.** The department shall provide
8 students at charter schools, including students enrolled at
9 charter schools whose curriculum incorporates virtual education,
10 with the same opportunity to participate in athletics as is
11 provided to students at other public schools. If a student at
12 [a] any charter school wishes to participate in a sport for
13 which there is no program at the charter school, the department
14 shall allow that student to participate in a comparable program
15 of any public school in the complex in which the charter school
16 is located[-] or at the public school in the service area in
17 which the student resides. All charter school students
18 participating in athletics shall abide by all rules,
19 regulations, and policies of the athletic league, association,
20 and program applicable to the public school in whose athletic
21 program the student is participating."



SECTION 16. Section 846-2.7, Hawaii Revised Statutes, is amended by amending subsection (b) to read as follows:

"(b) Criminal history record checks may be conducted by:

(1) The department of health or the department's designee on operators of adult foster homes or developmental disabilities domiciliary homes and their employees, as provided by section 333F-22;

(2) The department of health or the department's designee on prospective employees, persons seeking to serve as providers, or subcontractors in positions that place them in direct contact with clients when providing non-witnessed direct mental health services as provided by section 321-171.5;

(3) The department of health or the department's designee on all applicants for licensure for, operators for, prospective employees, and volunteers at one or more of the following: skilled nursing facility, intermediate care facility, adult residential care home, expanded adult residential care home, assisted living facility, home health agency, hospice, adult day health center, special treatment facility, therapeutic living program, intermediate care facility



1 for individuals with intellectual disabilities,
2 hospital, rural health center and rehabilitation
3 agency, and, in the case of any of the above
4 facilities operating in a private residence, on any
5 adult living in the facility other than the client as
6 provided by section 321-15.2;

7 (4) The department of education on employees, prospective
8 employees, and teacher trainees in any public school
9 in positions that necessitate close proximity to
10 children as provided by section 302A-601.5;

11 (5) The counties on employees and prospective employees
12 who may be in positions that place them in close
13 proximity to children in recreation or child care
14 programs and services;

15 (6) The county liquor commissions on applicants for liquor
16 licenses as provided by section 281-53.5;

17 (7) The county liquor commissions on employees and
18 prospective employees involved in liquor
19 administration, law enforcement, and liquor control
20 investigations;

21 (8) The department of human services on operators and
22 employees of child caring institutions, child placing



1 organizations, and foster boarding homes as provided
2 by section 346-17;

3 (9) The department of human services on prospective
4 adoptive parents as established under section
5 346-19.7;

6 (10) The department of human services on applicants to
7 operate child care facilities, prospective employees
8 of the applicant, and new employees of the provider
9 after registration or licensure as provided by section
10 346-154;

11 (11) The department of human services on persons exempt
12 pursuant to section 346-152 to be eligible to provide
13 child care and receive child care subsidies as
14 provided by section 346-152.5;

15 (12) The department of human services on operators and
16 employees of home and community-based case management
17 agencies and operators and other adults, except for
18 adults in care, residing in foster family homes as
19 provided by section 346-335;

20 (13) The department of human services on staff members of
21 the Hawaii youth correctional facility as provided by
22 section 352-5.5;



- 1 (14) The department of human services on employees,
2 prospective employees, and volunteers of contracted
3 providers and subcontractors in positions that place
4 them in close proximity to youth when providing
5 services on behalf of the office or the Hawaii youth
6 correctional facility as provided by section 352D-4.3;
- 7 (15) The judiciary on employees and applicants at detention
8 and shelter facilities as provided by section 571-34;
- 9 (16) The department of public safety on employees and
10 prospective employees who are directly involved with
11 the treatment and care of persons committed to a
12 correctional facility or who possess police powers
13 including the power of arrest as provided by section
14 353C-5;
- 15 (17) The board of private detectives and guards on
16 applicants for private detective or private guard
17 licensure as provided by section 463-9;
- 18 (18) Private schools and designated organizations on
19 employees and prospective employees who may be in
20 positions that necessitate close proximity to
21 children; provided that private schools and designated
22 organizations receive only indications of the states



1 from which the national criminal history record
2 information was provided pursuant to section 302C-1;

3 (19) The public library system on employees and prospective
4 employees whose positions place them in close
5 proximity to children as provided by section
6 302A-601.5;

7 (20) The State or any of its branches, political
8 subdivisions, or agencies on applicants and employees
9 holding a position that has the same type of contact
10 with children, vulnerable adults, or persons committed
11 to a correctional facility as other public employees
12 who hold positions that are authorized by law to
13 require criminal history record checks as a condition
14 of employment as provided by section 78-2.7;

15 (21) The department of human services on licensed adult day
16 care center operators, employees, new employees,
17 subcontracted service providers and their employees,
18 and adult volunteers as provided by section 346-97;

19 (22) The department of human services on purchase of
20 service contracted and subcontracted service providers
21 and their employees serving clients of the adult and



1 community care services branch, as provided by section
2 346-97;

3 (23) The department of human services on foster grandparent
4 program, retired and senior volunteer program, senior
5 companion program, and respite companion program
6 participants as provided by section 346-97;

7 (24) The department of human services on contracted and
8 subcontracted service providers and their current and
9 prospective employees that provide home and community-
10 based services under section 1915(c) of the Social
11 Security Act, Title 42 United States Code section
12 1396n(c), or under any other applicable section or
13 sections of the Social Security Act for the purposes
14 of providing home and community-based services, as
15 provided by section 346-97;

16 (25) The department of commerce and consumer affairs on
17 proposed directors and executive officers of a bank,
18 savings bank, savings and loan association, trust
19 company, and depository financial services loan
20 company as provided by section 412:3-201;

21 (26) The department of commerce and consumer affairs on
22 proposed directors and executive officers of a



1 nondepository financial services loan company as
2 provided by section 412:3-301;

3 (27) The department of commerce and consumer affairs on the
4 original chartering applicants and proposed executive
5 officers of a credit union as provided by section
6 412:10-103;

7 (28) The department of commerce and consumer affairs on:

8 (A) Each principal of every non-corporate applicant
9 for a money transmitter license; and

10 (B) The executive officers, key shareholders, and
11 managers in charge of a money transmitter's
12 activities of every corporate applicant for a
13 money transmitter license,

14 as provided by section 489D-9;

15 (29) The department of commerce and consumer affairs on
16 applicants for licensure and persons licensed under
17 title 24;

18 (30) The Hawaii health systems corporation on:

19 (A) Employees;

20 (B) Applicants seeking employment;

21 (C) Current or prospective members of the corporation
22 board or regional system board; or



(D) Current or prospective volunteers, providers, or
contractors,
in any of the corporation's health facilities as
provided by section 323F-5.5;

(31) The department of commerce and consumer affairs on:

(A) An applicant for a mortgage loan originator
license; and

(B) Each control person, executive officer, director,
general partner, and manager of an applicant for
a mortgage loan originator company license,
as provided by chapter 454F;

(32) The state public charter school commission or public
charter schools on employees, teacher trainees,
prospective employees, and prospective teacher
trainees in any public charter school for any position
that places them in close proximity to children, as
provided in section 302D-B;

~~[+32+]~~ (33) The counties on prospective employees who work
with vulnerable adults or senior citizens in
community-based programs;



1 ~~[(+33+)]~~ (34) The counties on prospective employees for fire
2 department positions which involve contact with
3 children or dependent adults;

4 ~~[(+34+)]~~ (35) The counties on prospective employees for
5 emergency medical services positions which involve
6 contact with children or dependent adults;

7 ~~[(+35+)]~~ (36) The counties on prospective employees for
8 emergency management positions and community
9 volunteers whose responsibilities involve planning and
10 executing homeland security measures including
11 viewing, handling, and engaging in law enforcement or
12 classified meetings and assisting vulnerable and
13 disabled citizens during emergencies or crises; and

14 ~~[(+36+)]~~ (37) Any other organization, entity, or the State,
15 its branches, political subdivisions, or agencies as
16 may be authorized by state law."

17 SECTION 17. Section 302D-22, Hawaii Revised Statutes, is
18 repealed.

19 ~~["[~~\$302D-22~~] Board as final arbitrator. (a) The board~~
20 ~~shall serve as the final arbitrator of those appeals listed in~~
21 ~~section 302D-15.~~



1 ~~(b) A party shall not be entitled to a hearing before the~~
2 ~~board under this section until it has exhausted all available~~
3 ~~administrative remedies.~~

4 ~~(c) The board shall adopt applicable rules and procedures~~
5 ~~pursuant to chapter 91 for implementing this section."]~~

6 SECTION 18. In codifying the new sections added by section
7 2 of this Act, the revisor of statutes shall substitute
8 appropriate section numbers for the letters used in designating
9 the new sections in this Act.

10 SECTION 19. Statutory material to be repealed is bracketed
11 and stricken. New statutory material is underscored.

12 SECTION 20. This Act shall take effect upon its approval.

13 INTRODUCED BY:

Jim
Michelle N. Kidari

For P

Amil Y. Ly
Amil M. Ly



Report Title:

Education; Charter Schools

Description:

Requires charter schools to complete an annual independent financial audit. Requires the state public charter school commission (commission) to develop procedures for conducting criminal history checks of persons who are employed or seeking employment in any position that places them in close proximity to children. Specifies enrollment requirements. Specifies when an employer or potential employer may use criminal history information to terminate or deny employment. Requires commission members to disclose to the commission a list of all charter schools in which the member is an employee, governing board member, vendor, contractor, agent, or representative and disqualifies members from voting on or participating in the discussion of such matters. Authorizes the commission to hire employees without regard to chapters 76 and 89, HRS. Removes the requirement that a nonprofit organization that governs a conversion charter school make minimum annual contributions to the charter school. Makes other amendments to chapter 302D, HRS, for purposes of clarity and consistency.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

